

Frequently Asked Questions
28 April 2004 MTSA Forum

1. Why is there a difference between East Coast and West Coast facilities regarding designation as a CDC Facility versus a General Cargo Facility?

- a. **When the question was being asked at the beginning of the process of FSP (33CFR105) development the Pacific Coast had a slightly different approach to Security Plans in place (PACAREAINST 16611). The east Coast did not have a mirror program and so applied a different definition until Coast Guard Headquarters weighed in with a uniform definition.**
- b. **In addition, the outreach in PACAREA may have provided for the distinction by encouraging more detail in the plans which when submitted allowed the National Review Center to define more CDC facilities on the West Coast.**
- c. **The definition from Coast Guard Headquarters clarified CDC (see 33CFR160.203), CDC in bulk and General Cargo for those who were in doubt. But, the definition in 33CFR101 remains unchanged and still the application that counts.**

2. What is interpreted as proper screening for each MARSEC level? Will there be any more guidance for screening such as a NVIC in addition to the regulations Handbook? If there is when will it be released? What is considered adequate and acceptable screening?

- a. **A new NVIC has been issued that answers this question. NVIC 04-06 was released recently (in June 2004) and it has an enclosure which is SSI and may be releases to FSOs which describes screening. These are voluntary measures!**

3. When a tug simply drops off a barge at a 33 CFR 105 facility (barge is towed in, pushed to pier and the tug departs, who from the vessel side is responsible for the generating and signing the declaration of security?

- a. **The Declaration of Security, when required, would be worked out between the Vessel Security Officer on the Towing Vessel and the Facility Security Officer. In the described case this would be for a delivery of the vessel and the Facility Security Officer would take on the responsibility for the Vessel. This case makes assumptions that no Tankerman or other Person in Charge will be designated for the barge. The regulations call for a PIC for any barges subject to 33CFR154. *For unmanned vessels the responsibilities are partially defined in 33CFR104.215(a)(3) and (4).***
- b. **The full answer to this question rides on what type of barge has been delivered to the facility. However, a new NVIC has been issued (NVIC 03-04 with Encl 8 being the pertinent one in this case see page 36 when following the link below) which states that unmanned barges will never require a DoS to be filled out. The NVIC is the place to see how the situations are applied to your particular facility. (http://cgweb.comdt.uscg.mil/g-mp/pdf/NVIC_04-03%20Ch1.pdf)**

4. Do facilities that are shut down for long portions of time (due to seasonality in the business or weather, for example) still need to maintain security for MARSEC I even though no commerce whatsoever is being transacted at the facility? If a facility is empty or closed for operations for 6 months, does facility have to have an FSP for the whole year.

- a. **Yes. If 33CFR105.105 makes a facility applicable then there are security requirements at all times. However, if addressed and explained in the Facility Security Plan a “relaxed” security posture may be assumed in the “off” season. Approval will depend on the risk assessment made by the facility.**
- b. **There are provisions in the regulations for Alternative Security Plans that might be a better fit for the situation described in this question. The Facility Security Officer/Owner/Operator would need to do the research.**

5. Can there be more than one cargo releaser for CDC facilities. eg. Can a clerk (if designated) release the cargo for CDCs?

- a. Yes, they must be trained in their security duties as described in the approved Facility Security Plan. *33CFR105.205(a)(3) and 33CFR105.210 all***

6. Can an actual security incident count towards the exercises / drills requirements?

- a. Response to a security incident might be used to fulfill the requirements of a drill. If, the incident tested a specific portion of the plan and the incident turned into a “non” incident. Response to a security incident may not be applied to the fulfillment of an exercise. Exercises and drills are planned events with specific goals that are different from response to an actual incident (TSI). *See 33CFR105.220 and 225***
- b. However, attaining an increased MARSEC Level may be counted as a drill or exercise if the facility reports attainment to the cognizant Captain of the Port. *33CFR105.220(a)(2)***

7. Can the FSO certify personnel for meeting security-training requirements?

- a. Yes, if the training conducted by the FSO is deemed adequate. *33CFR105.205(c)(5-7)***

8. Does the MARSEC notification system provide a facility a “return receipt” type response when the facility has acknowledged having attained a higher MARSEC level?

- a. Yes, the system is being designed to provide a return receipt option. However, the notification system on line is still in development and a full answer is not available at this time.**

9. What is the difference between CDC and CDC in bulk? Is a intermodal tank filled with a CDC a CDC in bulk?

- a. The definition of in bulk cargo is in 33CFR101.105 *definitions* this means “a commodity that is loaded or carried on board a vessel without containers or labels, and that is received and handled without mark or count.”
- b. The definition of a CDC is found in 33CFR160.203. This definition references other sections of the regulations but can be summarized as applying to specific groups of hazardous material, including LHGs and explosives. These are defined in quantity and by packaging in some cases.
- c. Finally, a CDC in bulk will fulfill both definitions. It will first be defined by 33CFR160.203 as a CDC and then it must be defined as per 33CFR101.105 as bulk or in bulk.
- d. An intermodal tank is a container style bulk packaging. It is not cargo *in bulk* as defined in 33CFR101.105.

Note: There were more questions asked at the Forum but they were answered by email to the persons who asked them or they have become “obsolete due to changes in the implementation as issued through NVIC and clarification of policy from CGHQ.